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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,935	03/24/2004	William D. Denison	4800 P 009	5150
7590	12/13/2005			
Edward L. Bishop FACTOR & LAKE, LTD 1327 W. Washington Blvd. Suite 5G/H Chicago, IL 60607			EXAMINER ZIMMERMAN, BRIAN A	
			ART UNIT 2635	PAPER NUMBER

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/807,935

Applicant(s)

DENISON ET AL.

Examiner

Brian A. Zimmerman

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**EXAMINER'S RESPONSE****Status of Application**

In response to the applicant's amendment received on 9/29/05. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 1-20 remain unpatentable for the reasons set forth in this office action:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4,6-9,11-17,19,20-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel (5109530) and Lemelson (4354189).

Lemelson shows an unlocking device where a receiver in the reader receives a reply signal from a coded ring, but does not specifically show the power controlling modes claimed. In an analogous art, Stengel teaches a method that is used to save power in a receiver. Stengel's receiver deactivates a circuit for a first time period (tx) in step 310. The receiver then enables the circuit

Art Unit: 2635

for a second time period in step 304. Upon sensing an electromagnetic signal during the second time period, the enabling is extended for a greater time (ty) step 320. The received signal can then be processed because it will be received in its entirety during the extended time. This method saves power in the receiver system.

2. Claims 5,10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stengel and Lemelson as applied to claims 1,8 and 15 above, and further in view of Stamm (4353064).

In an analogous art, Stamm shows the use of Infrared as an alternative electromagnetic signal (alternative to RF). This has the inherent advantage that the signal does not radiate outside a building and is therefore harder to eavesdrop.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used an infrared signal for communication in the above system since such would provide improved security to the access system.

### ***Response to Arguments***

Applicant's arguments filed 9/29/05 have been fully considered but they are not persuasive.

The applicant argues that the prior art, not the examiner must suggest the desirability of the claimed invention. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that

Art Unit: 2635

obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Stengel does specifically teach a method that is used to save power in a receiver.

The applicant argues that one of ordinary skill would not be motivated to use Lemelson for implementing the power control modes because Lemelson does not recognize the problem. To meet the criteria for a proper obviousness rejection, the primary reference does not need to recognize the problem solved by the secondary reference. Here, Lemelson is a powered receiver, it is conventionally understood that saving power is desirable in nearly all electronic devices. Hence one of ordinary skill in the art recognizes power saving as a solution to the problem and Stengel teaches a method (the claimed method) of saving power in a receiver.

The applicant argues that the radio receiver of Stengel is for voice signals and therefore cannot relate to unlocking devices. This is not true, the background of Stengel states that the invention is generally directed to battery powered receivers. A receiver that receives voice signals is an example articulated by Stengel, but the disclosed teachings are not limited to voice only systems as the applicant argues.

Art Unit: 2635


The applicant argues that Stengel does not address power consumption in an unlocking device. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Stengel is cited for teaching a power saving method for a receiver, such as the receiver used in Lemelson for an access control system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A. Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A. Zimmerman  
Primary Examiner  
Art Unit 2635

BAZ